REYNARD A CROSS

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August 25, 2026

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401 N. Morton Street
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RE: Formal Written Response and Objection to Notice of Removal Hearing Dated August 21, 2026 — Reynard Cross, Advisory Commissioner, Historic Preservation Commission

Mr. Allen:

1. Put plainly: the Council is being asked to end Cross's public service based on accusations he has not been shown, evidence he has not been allowed to examine, and, as far as the Notice reveals, no identified accuser he has had any chance to face. The Council should ask whether this is a process it would accept if it were applied to any of its own members.

2. This letter also documents something the Council should weigh independent of its due process obligations: Cross brought a specific, dated, repeatedly documented, properly channeled case regarding the Chair's conduct to the Council's own Committee on Council Processes on July 31, 2026. The Committee acknowledged receiving it on August 5, 2026, but no action has been taken on it since. Cross himself, by contrast, received an unspecified Notice of Removal Hearing within three weeks of submission of that briefing memorandum to the Committee, with exactly five business days to respond once the intervening weekend is excluded — the bare minimum the Committee's own 2023 precedent requires. That contrast is addressed directly in Part I.F below.

3. This letter is Reynard Cross's timely written response to the Notice of Removal Hearing dated August 21, 2026 ("the Notice"), submitted in advance of the 5:00 PM, August 28, 2026 deadline the Notice itself sets. It is organized in six parts: (I) a formal objection that the Notice fails to satisfy the minimum requirements of constitutional due process, the Council's own prior standard for removals of this kind, and raises a serious First Amendment concern; (II) a demand for the specific particulars due process requires; (III) a demand that the September 2, 2026 hearing be postponed and referred to committee until those particulars are provided; (IV) a request for disclosure concerning the role of the City Attorney's office in generating the claims against him; (V) a public records request; and (VI) a response, offered without prejudice to the objections above, addressing the substance of the Notice to the extent it can be addressed at all.

4. For context, the Notice alleges three categories of conduct: (1) "inhibiting the business of the Commission by disrupting the meeting, delaying business, and making claims about matters that were no longer before the HPC" at the July 9 and July 23, 2026 meetings; (2) "violating Indiana's Open Door Law by attempting to directly communicate with all HPC commissioners and demanding information sharing outside of a properly noticed meeting"; and (3) "violating the City's Code of Conduct for board and commission members." Each is addressed directly below.

> ***Nothing in this letter, including Part VI, is a waiver of any objection stated in Parts I through III. Cross reserves the right to supplement, amend, or withdraw any part of this response upon receipt of the particulars demanded below, and reserves all rights and remedies available to him under federal and state law, including 42 U.S.C. § 1983.***

I. Formal Objection: The Notice Fails to Satisfy Due Process

A. Cross holds a constitutionally protected interest in this proceeding

5. Bloomington Municipal Code 2.02.050 states that Commission members "may be removed for cause." This is not an at-will removal standard. The default common-law rule is that the power to appoint includes the power to remove at will; a "for cause" standard is a deliberate, express departure from that default.

6. Under Board of Regents v. Roth, 408 U.S. 564 (1972), a property interest protected by the Due Process Clause exists wherever state or local law creates "a legitimate claim of entitlement," not a mere unilateral expectation. A "for cause" removal standard is the paradigm example.

7. Federal courts have held specifically that a personnel standard adopted by ordinance — not merely an informal policy — creates a property interest triggering due process. Pittman v. Wilson County, 839 F.2d 225 (4th Cir. 1988). BMC 2.02.050 is an ordinance.

8. Independently of any property interest, the Notice attaches a stigmatizing charge to the proposed action: it alleges Cross violated a specific Indiana state statute (the Open Door Law) and engaged in conduct "detrimental to City operations or the public interest." Under Roth and its progeny, a stigmatizing charge combined with the loss of a public position ("stigma-plus") independently triggers a liberty interest requiring, at minimum, a name-clearing hearing.

9. Cross therefore holds both a property interest and a liberty interest in this proceeding. Either is independently sufficient to trigger the protections of the Fourteenth Amendment. The Notice must be evaluated against that standard, not against whatever informal procedure the Council may consider customary.

10. The Notice was transmitted by email on Friday, August 21, 2026 at 5:14:10 PM EDT — fourteen minutes after the Council's own standard close of business, and with a full weekend intervening before any response could begin. The response deadline set by the Notice is Friday, August 28, 2026 at 5:00 PM: seven calendar days, of which the first two fell on a weekend when City offices, and any attorney's office Cross might seek to retain, were closed. Cross's actual opportunity to secure counsel, review particulars, and prepare a response spans, at most, four business days.

11. This timing bears directly on the third factor of Mathews v. Eldridge, 424 U.S. 319 (1976) — the government's interest, including the administrative burden additional process would impose, weighed against the private interest at stake and the risk of an erroneous decision. That burden is not merely low; it is asymmetric. The Council, by its own account, had already "substantiated" the claims in the Notice as of the moment it was sent, using a staffed legal department with no comparable time constraint. Cross, an unrepresented volunteer, received that Notice at the close of a Friday business day and was given a single workweek, interrupted by a weekend, to respond to claims whose substance was not disclosed. The burden the Council asks Cross to bear is not one it imposed on itself.

B. The controlling standard: Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985)

12. Loudermill establishes the floor for what process is due before a protected interest is taken away. The Supreme Court described this as "the root requirement" of the Due Process Clause: an opportunity for a hearing before the deprivation occurs. That opportunity must include three things, together:

    a. Oral or written notice of the charges.

    b. An explanation of the government's evidence.

    c. A meaningful opportunity to present the individual's side of the story.

13. The purpose of these requirements, in the Court's own words, is to make the hearing "an initial check against mistaken decisions — essentially a determination of whether there are reasonable grounds to believe that the charges... are true." A body cannot check whether reasonable grounds exist without stating what the grounds are.

C. The Notice fails each of the three Loudermill requirements

14. The Notice does not provide notice of the charges in any meaningful sense. It lists three category headings — "inhibiting the business of the Commission," "violating Indiana's Open Door Law," and "violating the City's Code of Conduct." None of these is a charge. A charge identifies what was said or done.

15. The Notice does not state which specific statement or action, by Cross, at either the July 9 or July 23 meeting, is alleged to constitute any violation.

16. The Notice does not state the date or time within either meeting at which the alleged conduct occurred, despite both meetings being recorded and time-stamped.

17. The Notice does not state which specific provision of the Code of Conduct each specific act allegedly violates. It reproduces the Code of Conduct in full and leaves Cross to guess which of its five substantive provisions applies to which alleged act.

18. The Notice does not explain the reasoning connecting any specific act to any specific provision. It asserts a conclusion — "staff have substantiated the following claims" — without showing the analytical steps that produced it.

19. The Notice provides no explanation of the government's evidence whatsoever. It states that "staff" conducted an "investigation" and "substantiated" the claims. It does not identify what the investigation consisted of, what evidence was reviewed, or what that evidence shows.

20. The Notice does not identify who reported the "information of potential disruptions" that initiated this matter. Cross cannot evaluate the reliability, motive, or basis of an unnamed source.

21. Because the first two Loudermill requirements are absent, the third is illusory. An opportunity to respond is not meaningful when the respondent does not know what he is responding to. Cross cannot mount a defense to a charge he has not been told, using evidence he has not seen, of a violation whose connection to his conduct has not been explained.

22. Each deficiency above is independently sufficient to render the Notice constitutionally inadequate. Together, they leave Cross unable to exercise the due process rights Loudermill guarantees him.

D. A further, independent due process defect: the process is not institutionally impartial

23. The Notice does not disclose which office or individual within "staff" generated or substantiated the claims against Cross.

24. The City Attorney's office is known to have reviewed the contents of Cross's July 30, 2026 communication to fellow commissioners. That communication was never forwarded to them through the channel to which it was submitted; five days later, having received neither the forwarding nor any explanation for its absence, Cross sent it to fellow commissioners directly himself. This sequence is disclosed in Cross's own August 4, 2026 correspondence, which is available to the Council.

25. Anna Holmes, Senior Assistant City Attorney, was personally present at the July 23, 2026 meeting identified in the Notice.

26. An office that has already reviewed and delayed distribution of Cross's prior communications, and whose own staff member was present at the same meeting now cited in the Notice, is not self-evidently the impartial party due process contemplates. Combining the functions of investigator, evidence-gatherer, and the party generating this Notice in a single office — without disclosure or separation from the decision — is itself a procedural defect.

27. This is addressed further as a formal request for disclosure in Part IV below.

E. The Notice Falls Short of the Council's Own Prior Standard, and Raises a Serious First Amendment Concern

28. In February and March 2023, the Council considered removing a Traffic Commission member, Greg Alexander, for cause. Rather than deciding the matter at the meeting where the removal motion was first raised, the Council voted 9-0 to refer the matter to its own Special Committee on Council Processes, which met three times, received public comment, consulted Council attorneys, and issued a formal written report before any vote occurred.

29. That report, adopted by the Committee and never repudiated by the Council, recommended specifically: (a) that a removal motion "should be narrow, specific, and sufficiently clear" that the appointee "fully understand[s] the specific conduct, statements, or omissions" at issue; (b) that the appointee "be given at least five (5) business days to respond in writing to the specific allegations and proposed basis for removal," modeled expressly on Bloomington Municipal Code 2.08.020(4)'s standard for absenteeism removals; and (c) that the council member proposing removal "clarify the relevance of and logical connection between the named conduct" and the appointee's fitness to serve.

30. The Council did not merely receive these recommendations; it applied them. When the Council took up Alexander's removal, it unanimously supported giving him written notice of the specific charges against him and five business days to respond before any vote — the exact standard the Committee had recommended. This is not a report that went unused. It is the standard the Council itself followed, unanimously, the one other time this exact question came before it.

31. The Notice satisfies none of these self-imposed standards. It is not narrow or specific, for the reasons set out in Part I.C above. It does not clarify the connection between any named conduct and Cross's fitness to serve. And its timeline, addressed in Part I.A above, does not meaningfully replicate the five-business-day standard the Council's own committee recommended, given delivery after business hours on a Friday.

32. The Alexander matter also received a materially more deliberate process than the Notice contemplates here: three committee meetings over roughly a month, public comment, and a written report, before any vote was taken. The Notice, by contrast, proceeds directly from a Friday evening email to a scheduled vote eight calendar days later, with no indication of referral to committee or any comparable deliberation.

33. Separately, the Special Committee's 2023 report recognizes that removal of an appointee based on their statements or conduct may constitute unlawful retaliation where the speech is protected by the First Amendment, citing the Indiana Court of Appeals decision in Waller v. City of Madison, which applied this analysis to precisely this context: removal of a board or commission appointee for cause.

34. Waller and the Committee's report both apply the Pickering test to this context: whether the appointee's speech addressed a matter of public concern; the government's interest in efficient operation weighed against the appointee's interest in speaking; and whether the content of the speech was the motivating factor for the removal.

35. Cross's conduct in the weeks preceding the Notice consisted of raising concerns, in writing and on the record, about the Historic Preservation Commission Chair's compliance with the Commission's own governing rules, in connection with an irreversible demolition decision affecting affordable housing. None of this was confidential or novel: the substance of these concerns was stated on the record at the July 23, 2026 meeting itself, was set out in a written memorandum — titled “Procedural Defect and Requested Corrective Action — Seminary Point Demolition Delay Hearing, 25 June 2026” — to the Chair, the Commission, and the City Attorney's office on July 7, 2026, and was further detailed in the Points of Information — titled “Points of Information — Procedural Issues — 25 June 2026 Demolition Delay and 9 July 2026 Commissioner-Comments Votes” — served on July 30 and August 4, 2026, and was formally briefed to the Council's own Committee on Council Processes on July 31, 2026. This is speech on a matter of public concern by any reasonable measure, raised through ordinary, transparent channels available to any commissioner and directed, in significant part, straight to the Council itself.

36. The second Pickering factor — the government's interest in efficient operation weighed against the appointee's interest in speaking — does not favor the Council on this record. Cross's speech served, rather than undermined, the Commission's interest in operating lawfully and efficiently: identifying procedural non-compliance before an irreversible decision protects the Commission from exactly the kind of legal exposure this matter has already produced, including the closed thirty-day window for third-party judicial review of the underlying votes.

37. Cross raised his concerns through internal, orderly channels — meeting statements, a written memorandum, and Points of Information directed to the Chair and Commission — rather than through public disruption or channels bypassing the Commission itself. Courts applying Pickering give substantial weight to whether a speaker used channels appropriate to their position; Cross did.

38. The Notice does not identify any operational disruption caused by Cross's speech itself. Absent such a showing, there is nothing concrete for the government's efficiency interest to weigh in the balance the second Pickering factor requires.

39. Rankin v. McPherson, 483 U.S. 378, 390-91 (1987), holds that where an employee “serves no confidential, policymaking, or public contact role, the danger to the agency's successful function from that employee's private speech is minimal.” Cross's advisory, non-voting status places him outside the policymaking role that factor addresses: unlike a voting commissioner, he casts no vote and exercises no authority over the

Commission's final decisions. This does not mean Cross's role involves no public contact, since Commission meetings are public proceedings; it means the specific policymaking-authority concern that most often justifies a heightened government interest in restricting an employee's speech is not present here.

40. The City's own Code of Conduct, attached to and cited within the Notice, requires that members "respect the rule of the chair and City staff" and "follow the procedures set forth in code, bylaws, or rules and regulations, and in Robert's Rules of Order." Cross's conduct — insisting on compliance with RONR and the Commission's governing rules — was consistent with, not contrary to, the very standard the Council's own Code of Conduct establishes.

41. The Notice was issued on August 21, 2026 — one week after Cross's August 14, 2026 final written notice regarding the Points of Information went unanswered, and shortly after each of his successive efforts to obtain a substantive response from the Chair. Cross does not allege, and this letter does not assert, that the Council's motivation has been established. He states plainly that this proximity in time raises a serious question the Council should address directly, and that if protected speech was a motivating factor in this proceeding, the removal cannot lawfully proceed on that basis, regardless of what other grounds are cited.

42. Waller establishes the governing standard directly: a municipal appointee removable "for cause" may be removed only for acts or omissions that diminish the appointee's ability or fitness to perform the duties of that specific appointment. In Waller itself, the Indiana Court of Appeals held that conduct connected to a different board did not establish that required connection to the appointee's fitness for the two board seats from which he was actually removed. The Notice here does not establish that connection either, for any of its claims: it does not explain how the conduct alleged, whatever it is understood to be, diminishes Cross's fitness to perform the duties of his appointment to the Historic Preservation Commission specifically.

F. The Council's Own Selective Response Is Itself Evidence of Retaliatory Motive

43. The chronology above is not offered to adjudicate whether the Chair's conduct violated any rule — that determination belongs to the Committee's own pending review, not to this letter. It is offered because it shows what the Council actually had in front of it when it chose to act: a specific, dated, repeatedly-documented, properly-channeled case regarding the Chair, met with silence. Compare that to the Notice: unspecified, undocumented, and issued within three weeks, carrying a seven-day deadline. The Council took up, with both hands, a case against Cross that does not exist yet in any specified form, while a far more substantiated case regarding the Chair sat untouched. That contrast is not incidental. It is the pattern the doctrine below addresses directly.

44. Comparative treatment of similarly situated parties is recognized evidence of retaliatory motive. See Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274 (1977) (protected speech need only be shown as a motivating factor); Loyd v. Phillips Bros., Inc., 25 F.3d 518, 522 (7th Cir. 1994) (comparative evidence of more favorable treatment toward those who did not engage in protected activity supports an inference of retaliatory intent).

45. Cross submitted concerns, in writing, regarding the Chair's compliance with the Commission's own governing rules on July 7, 2026, and again, with greater detail and supporting attachments, to the Council's own Committee on Council Processes on July 31, 2026. Those attachments included a written Points of Information directed to the Chair. The Chair has never responded to it, in any form, as of the date of this letter — not a substantive answer, not even a statement that no answer would be forthcoming. This is not a disputed

characterization of contested meeting conduct; it is an undisputed, objectively verifiable fact: a document was served, and no response of any kind has been received.

46. As of the date of this letter, the Council's own Committee on Council Processes — the body Cross briefed regarding the Chair on July 31, 2026 — has taken no action on that briefing. Per the Committee Chair's own written response of August 5, 2026, the matter is not scheduled for discussion until the Committee's next meeting on August 31, 2026 — ten days after the Notice against Cross was issued, and thirty-one days after Cross's briefing was received. Whatever action, if any, has been taken by the Chair's own appointing authority is not something Cross can speak to. What the record does show is that the Council's own designated process for the concern Cross raised is moving slower than the process the Council has initiated against the person who raised it.

47. Cross, by contrast, received a Notice of Removal within three weeks of briefing the Council's own committee — a Notice containing no dates, no specific statements, no identified evidence, and no identified complainant — with a seven-calendar-day deadline to answer it. Under the doctrine above, this disparity is not incidental. It is precisely the kind of comparative evidence courts treat as probative of retaliatory intent, and the Council should understand that it will be treated as such here.

48. No one — not the Council, not its staff, not the City Attorney's office — has contacted Cross to hear his account of any of this before issuing the Notice. He was not interviewed. He was not asked a single question. The first he learned of any of it was the Notice itself.

49. Cross did not seek his current appointment; the Council asked him to serve. Before this term, he served five years as a voting member of the Historic Preservation Commission without incident, advocating for compliance with the Commission's own governing rules with the same consistency he has shown throughout the events this letter addresses. His conduct here is not a departure from how he has served the Commission. It is the same conduct that made him, in the Council's own judgment, worth asking to serve in the first place.

II. Demand for Particulars

50. For the Notice to satisfy the requirements described in Part I, the Council must provide, in writing, before any hearing proceeds to a decision, each of the following:

    a. The specific statement or action attributed to Cross, verbatim or as close to verbatim as the record allows, for each alleged violation.

    b. The date and approximate time within the meeting recording at which each statement or action occurred.

    c. The specific provision of BMC 2.02.050, the Code of Conduct, or any other rule allegedly violated by each specific statement or action.

    d. The reasoning connecting each specific statement or action to the specific provision it allegedly violates.

    e. The identity of the individual(s) who reported the “information of potential disruptions” referenced in the Notice.

f. A description of the investigation referenced in the Notice: who conducted it, what materials were reviewed, and what methodology was used to "substantiate" the claims.

g. All evidence relied upon in substantiating the claims, including any written complaint, staff memorandum, or investigatory notes.

h. Disclosure of whether the City Attorney's office, or any individual within it, played any role in generating, reviewing, editing, or substantiating the claims in the Notice.

51. Cross is entitled to know the specific charges and evidence against him, to confront and cross-examine any witness whose statements form a basis for the claims against him, and to call witnesses in his own defense. When and how will each of these rights be afforded to him — at the Committee on Council Processes meeting, the September 2, 2026 Regular Session, or otherwise?

III. Demand for Postponement of the September 2, 2026 Hearing

52. Proceeding to a decision on September 2, 2026 without first curing the deficiencies identified in Part I would violate Cross's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Cross formally demands that the Council postpone the hearing until:

    a. The particulars demanded in Part II have been provided to Cross in writing; and

    b. Cross has been afforded a reasonable period, measured from the date of that disclosure and not from the date of this letter, to review the particulars and prepare a response.

    c. Consistent with the Council's own March 1, 2023 precedent in the matter of Greg Alexander, the Council refers this matter to the Committee on Council Processes rather than deciding it at the September 2, 2026 Regular Session, and the current Notice is withdrawn in favor of one that satisfies the standards the Committee itself established.

53. The fit between this matter and the Committee on Council Processes is not merely convenient — it is unavoidable. Cross briefed that Committee directly on July 31, 2026, on the same procedural failures addressed in this letter, and the Committee's Chair acknowledged the briefing in writing on August 5, 2026, confirming there are "some general points here that it would be good for the Committee to discuss." That review remains pending, unresolved, three weeks later. Routing Cross's removal anywhere other than the Committee already reviewing the underlying conduct would be difficult to justify on any neutral ground, and the Council should not attempt to do so.

54. The Committee's fitness to take up this matter is not just doctrinal — it is calendared. The Committee on Council Processes has a regularly scheduled meeting on Monday, August 31, 2026, from 5:30 to 7:00 PM, in McCloskey Conference Room #135, two days before the September 2, 2026 Regular Session at which the Council proposes to decide Cross's removal. Referring this matter to that meeting requires no special session, no schedule accommodation, and no delay beyond the process already in motion for the underlying HPC complaint. There is no practical obstacle to the referral Cross requests; only the choice to grant it.

55. Cross does not ask the Council to conclude, as a matter of proven fact, that retaliation has occurred — the Council alone has access to its own deliberations, and motive is not something Cross can establish from outside them. But he is entitled to point out what the objective sequence shows: three weeks of an acknowledged, unresolved complaint against the Chair, followed by a vague, unparticularized Notice targeting

the complainant, followed by a proposed decision on that Notice before the Council's own committee has even met on the underlying complaint. This sequence is not something Cross is obligated to explain away. It carries the appearance of retaliation on its face, and it is the Council's burden, not his, to explain why that appearance is wrong.

56. Cross's own closing request that the Council respond by August 26, 2026 is not unreasonable. The Notice itself represents that "staff have substantiated the following claims" — meaning, by the Council's own account, the relevant information already exists and requires only disclosure, not new investigation. The Council also retains full discretion to adjust its own September 2, 2026 hearing date if it requires more time; Cross's own August 28, 2026 deadline does not move on his say-so.

57. Absent postponement on these terms, Cross states plainly that he regards the September 2, 2026 proceeding as constitutionally defective, and reserves all rights and remedies available to him as a consequence, including judicial relief.

IV. Request for Disclosure Concerning the City Attorney's Office and HAND

For the reasons stated in Part I.D, Cross formally requests that the Council disclose, in writing:

58. Whether Anna Holmes or any other member of the City Attorney's office had any role in generating, reviewing, editing, or substantiating the claims in the Notice.

59. Whether the City Attorney's office's review of Cross's July 30, 2026 communication, and the five-day delay in its distribution to fellow commissioners, is connected in any way to this Notice or the "information of potential disruptions" referenced in it.

60. Program Manager Sandweiss has stated that he was instructed by the City Attorney's office to withhold Cross's July 30, 2026 communication from the Chair and Commissioners pending review. Cross requests that the Council disclose who instructed this, and the basis or authority relied upon for it.

61. Anna Holmes was among the addressees Cross specified for that communication. Being a named addressee does not itself explain the authority to withhold delivery to the other named addressees — the Chair and the Commissioners — for five days.

62. What has become of the communication since July 30, 2026, and who has handled it in that time, including whether it was retained, filed, or forwarded to any other office.

63. Why Cross was not notified, at the time, that delivery to the Chair and Commissioners was being withheld on instruction from the City Attorney's office, rather than completed.

64. Whether any individual involved in generating or substantiating the claims in the Notice was present at, or a participant in, the July 9 or July 23, 2026 meetings referenced in it.

65. Whether Anna Killion-Hanson, HAND Director, or any other individual within HAND, had any role in generating, reviewing, or substantiating the claims in the Notice, or in the decision to issue it.

66. Whether Ms. Killion-Hanson was a complainant, or a source of any information relied upon, in connection with the Notice.

67. Whether Ms. Killion-Hanson's conduct at the July 23, 2026 meeting, documented in Finding 12 of the attached report, was disclosed to, or considered by, whoever generated the Notice.

V. Public Records Request

68. Pursuant to Indiana's Access to Public Records Act, IC 5-14-3, Cross requests copies of the following records:

    a. Any written complaint(s) that led to the issuance of the Notice.

    b. Any staff investigatory notes, summaries, memoranda, or reports referenced by the Notice's statement that "upon investigation, staff have substantiated the following claims."

    c. Any correspondence between the City Attorney's office and Common Council staff concerning Cross, the Historic Preservation Commission, or the Notice, between July 1, 2026 and the date of this letter.

69. Cross requests a response within the time period IC 5-14-3 requires, and requests that any withheld material be identified with the specific statutory exception claimed, consistent with the Act's requirements.

VI. Response to the Notice, Offered Without Prejudice to Parts I–III

70. The following is offered in the interest of transparency and to assist the Council's own review. It is not, and should not be construed as, a concession that Cross has been given constitutionally adequate notice of the claims against him, or a waiver of any objection stated above.

A. The video recordings are the best evidence, and are already in the City's possession

71. Both meetings referenced in the Notice — July 9 and July 23, 2026 — were video recorded, consistent with the Commission's ordinary practice.

72. Cross requests that the Council view these recordings directly, in full, rather than rely on a secondhand staff characterization of what occurred.

73. Cross is prepared to identify specific timestamps in both recordings, once the particulars demanded in Part II clarify which portions of his conduct are actually at issue.

B. The Open Door Law claim does not withstand examination of the statute

74. Indiana's Open Door Law, IC 5-14-1.5, governs gatherings of a quorum of a governing body, and separately prohibits serial meetings — multiple gatherings among subsets of members whose combined attendance reaches a quorum, on the same subject, within seven days. Both provisions require live, collective, deliberative exchange.

75. The Notice does not identify which of Cross's written communications to HPC members it contends violated this statute. Cross has sent several such communications over the relevant period. None of them involved a live gathering of any kind, and none was directed to a subset of members rather than the full Commission.

76. The statute's target is secrecy in deliberation, not the location of a communication. Individual members of a public body routinely correspond with one another outside of meetings without violating IC 5-14-1.5; what the law prohibits is collective deliberation or decision-making conducted so as to evade public observation.

77. HPC members have an established practice for this kind of communication: written material is submitted to the Program Manager for distribution to the full Commission. Cross's written communications followed that established practice. Treating use of the Commission's own established distribution channel as a violation of state law is difficult to reconcile with that same channel's routine, accepted use.

78. On January 23, 2026, then-Chair Sam DeSollar circulated a draft letter to the Mayor's office to the full Commission by email, inviting edits and comment. Chair Hackerd, and Commissioners Castaneda, Schlegel, and Duffy, along with Cross himself, directly participated in that chain by replying to it; Vice-Chair Jack Baker and Commissioner Melody Deusner were included as recipients of the same correspondence. Chair Hackerd's own reply included suggested edits, and he wrote that the draft had "touched on the major points in a clear and respectful way." Under RONR 2:25, a practice followed without objection is treated as equal to a rule; where that practice includes the presiding officer's own participation, RONR 23:10 confirms it carries particular weight as precedent for the body going forward.

79. This practice was not limited to the current Chair. Hackerd, Baker, Castaneda, Deusner, Duffy, and Schlegel are all currently voting members of the Commission; Cross was a voting member at the time and now serves in a non-voting capacity. If full-Commission email correspondence on Commission business is now being treated as conduct requiring scrutiny, Cross asks directly: does the Council intend to apply that standard equally to the currently serving voting members who participated in or received the same communication? If not, Cross is entitled to know why the standard applies only to the one participant now serving in a non-voting capacity.

80. Whatever communication the Notice means, the same defect applies: a written document sent to the full Commission at once is the opposite of the sequential, subset-by-subset pattern IC 5-14-1.5's serial-meeting provision addresses. That provision exists to catch communication structured to avoid ever assembling a quorum's worth of members in view of the public. Sending the same document to every member simultaneously is the most transparent version of communication available, not the kind of concealment the statute targets.

81. Even if any of Cross's written communications to Commission members were treated as some form of collective activity among members — which none of them were — each would still fall outside the Open Door Law on independent grounds. Each was confined to conveying information or requesting a response and did not involve deliberation among members or any exercise of decision-making authority. If a multi-member committee actively engaged in receiving information or formulating recommendations falls outside the Open Door Law's definition of a governing body, IC 5-14-1.5-2(b)(3), a single member's one-way written communication, involving no deliberation between members at all, falls outside it as well.

82. RONR itself contemplates written communication to the chair or secretary in advance of a meeting as ordinary practice, not as something requiring special justification. RONR 4:5 provides that a resolution or complicated motion "should be prepared in advance of the meeting... and should be put into writing before it is offered," delivered to the chair or secretary ahead of time. While that provision addresses motions rather than requests for information specifically, it reflects the same underlying principle: written, advance communication to a presiding officer is a normal and sanctioned part of how a deliberative body conducts business, not a deviation from it.

83. Cross's written communications to Commission members have consistently been framed to preserve, not evade, the transparency a live exchange would provide — inviting members to see both what was raised and

what response, if any, was given, in the same way they would at a meeting itself. That is the opposite of the concealment the Open Door Law exists to prevent.

84. Cross's written communications were also made in anticipation of upcoming Commission business, consistent with RONR's own recognition that written material prepared in advance of a meeting serves a legitimate, ordinary purpose. This is not a novel practice invented to avoid a public forum; it is preparation for one.

85. Cross requests that the Council identify: which specific written communication it contends violated IC 5-14-1.5; the specific provision of the statute it contends was violated; and the specific content of that communication it relies on for the claim.

C. The claim that Cross raised "matters no longer before the HPC" misstates the applicable procedural rule

86. The HPC's own Rules and Procedures adopt Robert's Rules of Order Newly Revised (RONR), 12th ed., as binding parliamentary authority.

87. RONR 23:6 expressly permits a point of order to be raised "at any time during the continuance of the breach... regardless of how much time has elapsed," where the underlying action conflicts with the organization's own governing rules, applicable law, or a rule protecting a basic right of an individual member.

88. Raising matters from the June 25 and July 9, 2026 meetings at the July 23, 2026 meeting was not a procedural violation. It was the correct application of the specific rule governing exactly that circumstance — the same rule the Code of Conduct itself requires Commission members to follow.

89. As stated at the outset: the Council is being asked to end Cross's public service based on accusations he has not been shown, evidence he has not been allowed to examine, and no identified accuser he has had any chance to face. The Council should ask whether this is a process it would accept if it were applied to any of its own members.

90. Cross requests a written response to Parts II, III, and IV of this letter no later than close of business on August 26, 2026, to allow a meaningful opportunity to review any particulars provided before the August 28, 2026 deadline. Further, Cross formally demands that the Council postpone the hearing until the particulars demanded in Part II have been provided in writing; that he be afforded a reasonable period, measured from the date of that disclosure and not from the date of this letter, to review the particulars and prepare a response, and that the Council refers this matter to the Committee on Council Processes rather than deciding it at the September 2, 2026 Regular Session, and the current Notice is withdrawn in favor of one that satisfies the standards the Committee itself established.

91. Cross remains available to discuss any part of this letter by phone or in person.

Respectfully,

Reynard Cross
Commissioner
Bloomington HPC

Attachments:

1. Memorandum: “Procedural Defect and Requested Corrective Action — Seminary Point Demolition Delay Hearing, 25 June 2026” (July 7, 2026)
2. Legal Memorandum: “Rescinding a Demolition Delay Decision”, Holmes & Kerr, Assistant City Attorneys (July 9, 2026)
3. Points of Information — Procedural Issues — 25 June 2026 Demolition Delay and 9 July 2026 Commissioner-Comments Votes” (July 28, 2026)
4. Briefing for the Bloomington City Council, submitted to the Committee on Council Processes (July 31, 2026)
5. Written Acknowledgment of Receipt of “Briefing for the Bloomington City Council” Memorandum, from Committee Chair Isabel Piedmont-Smith (August 5, 2026)
6. Report on the Procedural Conduct of the Chair (August 24, 2026)